

Reply under 37 CFR 1.114 - RCE
Atty Docket No. 18668-US1
Serial No. 10/087,082
Page 4 of 5

REMARKS

Status of the claims

Claim 1 and claim 9 are currently amended. Claims 1, 3-17 are pending and under consideration with entry of the Amendment.

Support for claim amendments

Support for the amendments to the claims can be found in the Specification on page 7, lines 10-13.

Claim Rejection – 35 USC § 103

Claims 1, 3-17 are rejected under 35 USC § 103, as being unpatentable over Eggeling et al. (Hum Genet., Vol 99, pages 266-270, 1997) ("Eggeling") in view of Ando et al. (J Clin Microbiol., Vol.35, No.3, pages 570-577, 1997) ("Ando"). See Final Action pages 2-4.

Applicants have amended claims 1 and 9 to include the limitation of "said nucleic acid fragments are between 100 and 1000 base pairs in length," as supported in the Specification (page 7, lines 10-13), excluding the inclusion of amplifying longer templates as taught by Ando et al.

Applicants assert that the claimed invention is not directed to problems with the amplification of long templates of nucleic acid molecules. "The method provided by the invention is suitable for use in the amplification of nucleic acid fragments having a length between 100 and 1000 base pairs. The method is especially suited for use in the amplification of nucleic acid fragments having a length between 150 and 550 base pairs" (Specification p 7. lines 10-13). Ando describes methods to efficiently amplify a 3-kilobase region of nucleic acid. Applicants assert that it was well known in the art that amplification of a 3-kilobase region is different than amplification of a smaller region, <1000 base pairs. One skilled in the art would not have been motivated to use a mixture of DNA polymerases in the second specific amplification step because such mixtures were only used in the art in the amplification of long templates. Applicants assert that the Office has not provided the motivation for an ordinary practitioner to combine the teachings of Ando with Eggeling for the amplification of shorter templates. Accordingly, the combination of the two references does not render claims 1, 3-17, as currently amended, obvious. Applicants respectfully request withdrawal of the rejection.

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Atty Docket No. 18668-US1
Serial No. 10/087,082
Page 5 of 5

CONCLUSION

Applicants request non-entry of the un-entered after-final amendments submitted by the Applicants on March 7, 2005. Applicants request entry of the present RCE submission amendments and remarks.

Applicants respectfully assert that the present application is in condition for allowance and request that the Office issue a timely Notice of Allowance.

Please grant any extensions of time required to enter this amendment and charge any additional fees or credit any overpayments to Deposit Account No. 50-0812.

Please direct all future correspondence to:

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Respectfully submitted,

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